

1 AN ACT concerning public employment.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Honest Employee Act.

6 Section 5. Definitions.

7 (a) "Employer" means the State of Illinois, any agency
8 of State government, any State college or university, any
9 community college district, any county, any municipality, any
10 township, any school district, any municipal corporation, any
11 unit of local government, and any combination of these
12 entities under an intergovernmental agreement that includes
13 provisions for a governing body of the agency created by the
14 agreement. "Employer" also means agents, contractors, and
15 subcontractors of an employer.

16 (b) "Employee" means any individual who performs
17 services for or under the control and direction of an
18 employer for wages or other remuneration. "Employee" also
19 includes former employees.

20 (c) "Public body" means:

21 (1) Any popularly-elected federal, State, or local
22 governmental body or any member or employee thereof;

23 (2) any federal, State, or local judiciary, any
24 member or employee thereof, or any grand or petit jury;

25 (3) any federal, State, or local regulatory,
26 administrative, or public agency or authority, or
27 instrumentality thereof;

28 (4) any federal, State, or local law enforcement
29 agency, prosecutorial office, or police or peace
30 officer;

31 (5) any federal, State, or local department of an

1 executive branch of government; or

2 (6) any division, board, bureau, office, committee,
3 or commission of any of the public bodies described in
4 this subsection.

5 (d) "Supervisor" means an individual with an employer's
6 organization who has the authority to direct and control the
7 work performance of the affected employee or who has
8 authority to take corrective action regarding the violation
9 of the law, rule, or regulation of which the employee
10 complains.

11 (e) "Retaliatory action" means the discharge,
12 suspension, demotion, harassment, blacklisting, other adverse
13 employment action taken against any employee in the terms and
14 conditions of employment, or other actions that interfere
15 with an employee's ability to engage in protected activity
16 set forth in Section 10.

17 Section 10. Protected Activity. An employer shall not
18 take any retaliatory action against an employee because the
19 employee does any of the following:

20 (1) Discloses, threatens to disclose, or is about to
21 disclose to a supervisor or to a public body an activity,
22 policy, or practice of the employer, a co-employee, or
23 another employer that the employee reasonable believes is in
24 violation of a law, or of a rule or regulation promulgated
25 pursuant to law.

26 (2) Provides information to or testifies before any
27 public body conducting an investigation, hearing, or inquiry
28 into any violation of law, or a rule or regulation
29 promulgated pursuant to law, by the employer or another
30 employer.

31 (3) Discloses, threatens to disclose, or is about to
32 disclose to a supervisor or to a public body an activity,
33 policy, or practice of the employer a co-employee, or another

1 employer that the employee reasonably believes is
2 incompatible with a clear mandate of public policy concerning
3 the public health, safety, or welfare or protection of the
4 environment.

5 (4) Assists or participates in a proceeding to enforce
6 the provisions of this Act.

7 (5) Objects to, opposes, or refuses to participate in
8 any activity, policy, or practice that the employee
9 reasonably believes (i) is in violation of a law, or a rule
10 or regulation promulgated pursuant to law, (ii) is fraudulent
11 or criminal, or (iii) is incompatible with a clear mandate of
12 public policy concerning the public health, safety, or
13 welfare or protection of the environment.

14 Section 15. Forum. Upon on a violation of any of the
15 provisions of this Act, an employee may, within one year,
16 institute a civil action in a Circuit Court of competent
17 jurisdiction. Any party may request and obtain a trial by
18 jury.

19 Section 20. Burden of proof. An employee may prove a
20 violation of this Act only by demonstrating that (i) the
21 employee engaged in conduct described in Section 10 and (ii)
22 that conduct was a contributing factor in the retaliatory
23 action alleged in the complaint by the employee. Relief may
24 not be ordered under Section 25, however, if the employer
25 demonstrates by clear and convincing evidence that the
26 employer would have taken the same unfavorable personnel
27 action (retaliatory action) in the absence of that conduct.

28 Section 25. Remedies. An employee is entitled to all
29 remedies necessary to make the employee whole and to prevent
30 future violations of this Act. Remedies may include, but are
31 not limited to, all of the following:

- 1 (1) all remedies available in common law tort actions;
- 2 (2) reinstatement of the employee to either the same
- 3 position held before the retaliatory action or to an
- 4 equivalent position;
- 5 (3) 2 times the amount of back pay;
- 6 (4) interest on the back pay;
- 7 (5) the reinstatement of full fringe benefits and
- 8 seniority rights;
- 9 (6) the payment by the employer of reasonable costs,
- 10 expert witness fees and attorneys' fees; and
- 11 (7) an injunction to restrain continued violation of
- 12 this Act.

13 Section 30. Posting. An employer must conspicuously
14 display notices of its employees' protections and obligations
15 under this Act.

16 Section 35. Preemption. Nothing in this Act shall be
17 deemed to diminish the rights, privileges, or remedies of an
18 employee under any other federal or State law or regulation
19 or under any collective bargaining agreement or employment
20 contract. No employee may waive, through a private contract,
21 any right set forth in this Act, except as set forth in
22 Section 40, and no employee may be compelled to adjudicate
23 his or her rights under this Act pursuant to a collective
24 bargaining agreement or any other arbitration agreement.

25 Section 40. Settlement. The rights afforded employees
26 under this Act may not be waived or modified, except through
27 a court-approved settlement agreement reached with the
28 voluntary participation and consent of the employee and
29 employer. An employer may not require an employee to waive,
30 as a condition of settlement, his or her right to reasonably
31 engage in conduct protected under Section 10 of this Act.

1 Section 45. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 50. Home rule. A home rule unit may not regulate
4 its employees in a manner not consistent with this Act. This
5 Section is a denial and limitation of home rule powers and
6 functions under subsection (i) of Section 6 of Article VII of
7 the Illinois Constitution.

8 Section 55. Mandates. This Act is exempt from the
9 reimbursement requirements of the State Mandates Act, as
10 provided in that Act.

11 Section 900. The State Mandates Act is amended by adding
12 Section 8.27 as follows:

13 (30 ILCS 805/8.27 new)

14 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
15 and 8 of this Act, no reimbursement by the State is required
16 for the implementation of any mandate created by the Honest
17 Employee Act.

18 (5 ILCS 395/Act rep.)

19 Section 910. The Whistle Blower Protection Act is
20 repealed.

21 Section 999. Effective date. This Act takes effect upon
22 becoming law.

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Statutes amended in order of appearance

New Act

5 ILCS 395/Act rep.